IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20440 of 2004

Between:

Y.C. Obula Reddy, S/o. Y. Narasimha Reddy, Hindu,
E.No. 408437, Resident of D.No. 17/1145/B-7, Rajendra Nagar, Guntakal,
Anantapur District.

... PETITIONER

AND

1 The Depot Manager, APSRTC, Tadipatri Depot, Tadipatri, Anantapur District.
2 The Divisional Manager, APSRTC, Anantapur Division, Anantapur.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the action of the 1st respondent in imposing major punishment of deferment of two annual increments with cumulative effect without conducting any enquiry vide his proceedings No. 01/287(26)-TDP dated 9-4-1994 and confirming the same by the 2nd respondent vide his proceedings No. TY/19(328)/2002-DVM-A dated 26-4-2003 as illegal, arbitrary, in violation of principles of natural justice and in violation of Articles 14 and 21 of the constitution of India and consequently direct the respondents to add two increments to the pay of the petitioner.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following:

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Oral Order:

The petitioner is working as a conductor in the respondent corporation. He was issued a charge sheet on 10-9-1993 on the ground that on 18-8-1992 he left the starting point 50 minutes before the prescribed time. The charge sheet was issued eleven months after the said incident. The petitioner did not submit any explanation. Therefore, the order was passed on 9-4-1994 imposing the penalty of stoppage of two increments with cumulative effect. After a delay of seven (07) years the petitioner preferred an appeal to the second respondent and the same was rejected on 26-4-2003. The petitioner being aggrieved by the orders of the respondents dated 9-4-1994 and 26-4-2003 approached this Court through this writ petition seeking to declare them as illegal and arbitrary and that the punishment imposed on him is disproportionate to the gravity of misconduct.

Since the petitioner did not file any explanation to the charge sheet issued to him, he is not entitled to contend that the proceedings are vitiated due to non-conducting of an enquiry. The first respondent is therefore right in finding the petitioner guilty of the charge and the second respondent was also right in confirming the orders of the first respondent in finding the appellant guilty.

Regarding the proportionality of the punishment, the petitioner contends that the allegation against him is that he moved the bus 50 minutes in advance to the prescribed time. He further contends that the punishment imposed upon him is disproportionate to the gravity of the misconduct, therefore, he requested to reduce the punishment.

Having regard to the nature of misconduct and the other circumstances explained by the petitioner, I am inclined to modify the punishment imposed by the first respondent.

In the light of the above circumstances, the orders of the respondents finding the petitioner guilty of the charge are confirmed. The punishment of stoppage of two increments with cumulative effect is modified into stoppage of two increments without cumulative effect.

Since the delay occurred at the instance of the petitioner in approaching this

Court after ten years, he is not entitled for the monetary benefit for this period, but he is entitled to get the benefit of the deferred increments from the date of this order.

The writ petition is accordingly disposed of.

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(Dr.G. Yethirajulu, J)

05th November 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Depot Manager, APSRTC, Tadipatri Depot, Tadipatri, Anantapur District.
2 The Divisional Manager, APSRTC, Anantapur Division, Anantapur.

3 Mr.A. Rama Rao, Advocate (OPUC)

4 Mr.P. Vinayakaswamy, Advocate (OPUC)

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